

REMARKS

In the Advisory Action, Claims 1-36 were examined and stand rejected. In response, Claims 1, 6, 12, 15, 19, 22, 25, 28 and 34 are amended, no claims are added and no claims are cancelled. Applicant respectfully requests reconsideration of pending Claims 1-36 in view of the above amendments and the following remarks.

I. Claims Rejected Under 35 U.S.C. §103

The Examiner has rejected Claims 1-2, 4, 6-8, 11-26, 28-29 and 33-36 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,298,482 issued to Seidman et al. ("Seidman") in view of U.S. Patent No. 6,611,842 issued to Brown ("Brown"). Applicant respectfully requests reconsideration of this rejection in view of the amendments to Claims 1, 6, 12, 15, 19, 22, 25, 28 and 34 and the following remarks.

Regarding Claims 1, 15 and 25, Claims 1, 15 and 25 recite analogous claim features. Claim 1 is representative. Claim 1 recites at least the following claim feature which is neither disclosed nor suggested by Seidman:

broadcasting meta-data to one or more client systems, including descriptions of a plurality of available for broadcast data files from a broadcast server of a service provider system and a second plurality of upcoming data files to be broadcast to the one or more client system by a broadcast server of a broadcast service system that is separate from the service provider system. (Emphasis added.)

Conversely, Seidman discloses a system for two-way digital multi-media broadcast and interactive services; specifically, as recited by Seidman:

This invention relates to a method of delivering data from a server to a plurality of subscribers connected to the server. (Col. 1, lines 6-7.) (Emphasis added.)

As further described by Seidman:

ITV systems require a network architecture which supplies an "upstream" (from user to head end) and a "down stream" (from head end to user) channel to each user. Most commonly, the downstream channel has been the TV broadcast,

satellite, or cable medium, while the upstream channel has used the public service telephone network. (Col. 1, lines 9-14.) (Emphasis added.)

Applicant respectfully submits that the content provider in the viewer response system, as taught by Seidman, is a single content provider having various video and audio streams, which may be concurrently provided from a single server (head end) to a plurality of subscribers connected to the server, as a multiplex for navigation thereof by the subscribers. (See, col. 5, lines 3-5.) Conversely, amended Claims 1, 15 and 24 recite:

... a broadcast server of a service provider system and ... a broadcast server of a broadcast service system that is separate from the service provider system.

According to the Examiner, Seidman teaches the above recited feature, prior to amendment, at col. 5, lines 13-32; col. 7, lines 39-55; and col. 9, lines 20-40. (See p. 4, ¶ 3 of the Office Action mailed 07/27/06.)

However, the passages of Seidman referred to by the Examiner do not teach or suggest a broadcast server of a service provider system and a broadcast server of a broadcast service system that is separate from the service provider system. The passages referred to by the Examiner describe the following: objects as well defined sub-units discernible in a media stream (see col. 5, lines 13-32;) Intra-Video Navigation to cause modification of data embedded in a stream to reflect user interest (see col. 7, lines 39-55) and dynamic modification of stream content in response to a user selection (see col. 9, lines 20-40.)

As further indicated by the Examiner:

One Ordinary Skill in the art would understand that at least “hyperlink” is provided from the Internet Service Provider. Although this “data” may be provided by the same headend, this “data” clearly different and is provided by a different source, i.e., ISP or server, which constitutes a service provider system. In fact, there is nothing in the claim preclude the “broadcast service system” and the “service provider system” to be a part of the same overall headend system. Hence, a broadcast service system is most certainly a service provider system and vice versa. (Pg. 2, ¶ 2 in the Response to Arguments of the Advisory Action mailed November 1, 2006.) (Emphasis added.)

In response, Claims 1, 15 and 25 are amended to recite that the broadcast service system is separate from the service provider system. In other words, as recited by amended Claims 1, 15

and 25, the services provider system includes a broadcast server which broadcasts the available broadcast data file. In contrast, the plurality of upcoming data files are broadcast by a broadcast server of a broadcast service system that is separate from the service provider system, as recited by amended Claims 1, 15 and 25.

Therefore, although the hyperlink is provided by a Internet service provider, as recited by amended Claims 1, 15 and 25, the broadcast service system and the service provider system are prohibited from being part of the same overall head end server since, as recited by amended Claims 1, 15 and 25, the broadcast service system is separate from the service provider system.

Hence, Applicants respectfully submit that the various passages of Seidman referred to by the Examiner do not teach or suggest the plurality of available for broadcast data files from a broadcast server of a service provider system or the second plurality of upcoming data files to be broadcast to the one or more client's systems by a broadcast server of a broadcast system that is separate from the service provider system, as recited by amended Claims 1, 15 and 25.

Furthermore, Seidman explicitly requires the coordinated transmission of a multiplex of audio and video streams for concurrent play of the audio and video streams to enable a user to navigate the concurrently transmitted audio and video streams to select a combination thereof and receive a customized digital stream. (See col. 5, lines 3-5 and 24-32.) As further described by Seidman, the digital stream may be customized according to selection history records generated from monitoring viewing of the user (see col. 6, lines 2-6 and col. 7, lines 5-19).

As correctly recognized by the Examiner, Seidman fails to teach or suggest the broadcasting of at least one available for broadcast data file to the one or more client systems for selective storage therein according to respective content rating tables as the one or more client systems, and prior to the broadcast of at least one of the plurality of upcoming data files by the broadcast service system. (See, pg. 5, ¶ 1 of Office Action mailed July 27, 2006.) As a result, the Examiner cites Brown, which according to the Examiner, teaches the above-recited feature of Claims 1, 15 and 25. (See, Brown, col. 12, lines 25-35.)

According to the Examiner, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Seidman to record at least one TV program on the

user receiver according to user profile, as taught by Brown, so the recorded program may be viewed at a later time. (See, pg. 4, first paragraph of Office Action mailed January 31, 2006.) Assuming, arguendo, that one would modify Seidman in view of Brown, as suggested by the Examiner, Applicant respectfully submits that such modification would still fail to teach or suggest that the broadcast by the broadcast server of the service provider system of the at least one available for broadcast data file occurs prior to broadcast of at least one of the plurality of upcoming data files by the broadcast server of the broadcast service system, as recited by Claims 1, 15 and 25.

As mandated by case law, “to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art.” In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

Here, the Examiner cites Brown to teach or suggest the broadcast of at least one available for broadcast data file for selective storage within one or more client systems according to a content rating table of the client system, and prior to the broadcast of at least one upcoming data file by the broadcast service system, as recited by Claims 1, 15 and 25. According to the Examiner, the above-recited feature is either taught or suggested by Brown at col. 12, lines 25-35. As indicated by such portion of Brown:

When the recording apparatus 100 detects that the television 101 is not switched on and displaying a program, the recording apparatus 100 utilizes received profile data to determine which received programs are associated with profile data strongly corresponding to the stored user profile indicative of programs which have been displayed by the television 101. Where the profile data of a received program corresponds strongly to the user profile stored within the recording apparatus 100 the recording apparatus 100 records that program in a memory, so that the recorded program may be viewed at a later date. (col. 12, lines 25-35.) (Emphasis added.)

As indicated by the cited passage above, the recording apparatus records a received program in memory if the program corresponds strongly to a user profile indicative of programs which have been displayed by the television 101. Applicant respectfully submits that such passage refers to the recording of received programs and hence, provides no teachings or suggestions with regard to the broadcast of at least one available for broadcast data file for

selective storage within one or more client systems according to a content rating table of the client system, and prior to the broadcast of at least one upcoming data file by the broadcast service system, as recited by Claims 1, 15 and 25. Consequently, since the teachings of Brown are expressly limited to recording of a received program, Brown cannot teach or suggest that such recorded programs are broadcast prior to broadcast of at least one upcoming data file from a broadcast server of a broadcast service system that is separate from a service provider system, as recited by Claims 1, 15 and 25.

Hence, Applicant respectfully submits that the prior art combination of Seidman in view of Brown fails to teach or suggest each and every feature recited by Claims 1, 15 and 25, as required to establish a *prima facie* case of obviousness. Id.

Consequently, for at least the reasons provided above, Applicant respectfully submits that the amendments to Claims 1, 15 and 25 prohibit the Examiner from establishing a *prima facie* case of obviousness of amended Claims 1, 15 and 25, since the prior art combination of Seidman in view of Brown fails to teach or suggest each and every feature recited by amended Claims 1, 15 and 25, as required to establish a *prima facie* case of obviousness. In re Royka, supra.

Accordingly, for at least the reasons provided above, Applicant respectfully submits that amended Claims 1, 15 and 25 are patentable over the combination of Seidman, in view of Brown. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the §103(a) rejection of amended Claims 1, 15 and 25.

Regarding Claims 2 and 4, Claims 2 and 4, based on their dependency from Claim 1 and for at least the reasons provided above, are also patentable over the prior art combination of Seidman in view of Brown. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the §103(a) rejection of Claims 2 and 4.

Regarding Claims 16-18, Claims 16-18, based on their dependency from Claim 15, are also patentable over the combination of Seidman in view of Brown. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the §103(a) rejection of Claims 16-18.

Regarding Claims 26, 28 and 29, Claims 26, 28 and 29, based on their dependency from Claim 25, are also patentable over the prior art combination of Seidman in view of Brown. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the §103(a) rejection of Claims 26, 28 and 29.

Regarding Claims 6, 19 and 28, Claims 6, 19 and 28, recite analogous claim features. Claim 6 is representative. Claims 6, 19 and 28 recite the following claim feature which is neither taught nor suggested by the combination of Seidman in view of Brown:

receiving meta-data, the meta-data including descriptions of a plurality of available for broadcast data files from a broadcast server of a service provider system and a plurality of upcoming data files to be broadcast by a broadcast server of a broadcast service system that is separate from the service provider system. (Emphasis added.)

As recited by Claims 6, 19 and 28, the data files stored are a combination of data files available for broadcast from a broadcast server of a service provider system and a plurality of upcoming data files that are to be broadcast by a broadcast server of a broadcast service system that is separate from the service provider system. Conversely, Applicant respectfully submits that the disclosure of Seidman is limited to a single content provider that transmits a digital stream from a single server (head end) to a plurality of subscribers connected to the server, which is a multiplex of streams that are coordinated for concurrent play by the subscribers. (See col. 5, lines 3-5.)

Hence, Applicant respectfully submits that the content provider in the viewer response system, as taught by Seidman, is a single content provider having various video and audio streams, which may be concurrently provided as a multiplex for navigation thereof by a user from a single head end server. (See col. 5, lines 3-5.) Consequently, the program segments provided to users, as taught by Seidman, are from a single service provider or a single broadcast service system for concurrent playback, and not from a combination of a broadcast server of a service provider system and a broadcast server of a broadcast service system that is separate from the service provider system, as recited by Claims 6, 19 and 28.

According to the Examiner, receiving an upcoming data file, broadcast by a service provider system, and an available for broadcast data file, broadcast by a broadcast service system,

as recited by Claims 6, 19 and 28, is taught by Seidman at col. 5, lines 13-32, col. 7, lines 39-55, and col. 9, lines 20-40. (See p. 7, ¶ 4 of Office Action mailed July 27, 2006.) Applicant respectfully disagrees.

Applicant has carefully reviewed the cited passages indicated by the Examiner. In contrast to the Examiner's content, Seidman teaches that the multiplex of audio and video streams received by users are provided from a single server (head end) to a plurality of subscribers connected to the server and hence, from a single head end server. (See, col. 3, lines 56-65.) Therefore, Seidman does not teach or suggest the receipt of audio and video streams from a broadcast server of a service provider system and a broadcast server of a broadcast service system that is separate from the service provider system, as recited by Claims 6, 19 and 28, since Seidman is expressly limited to a single content provider, which has various audio and video streams, which may be concurrently provided as a multiplex for navigation thereof by a user from a single head end server. (See col. 5, lines 3-5 and col. 1, lines 6-14.)

Furthermore, the disclosure in Brown (see col. 12, lines 25-35) is also limited to a single content provider and does not teach multiple content providers, such as a broadcast server of a service provider system and a broadcast server of a broadcast service system that is separate from the service provider system from which available for broadcast data files and upcoming data files are received, as recited by Claims 6, 19 and 28.

Accordingly, for at least the reasons provided above, Applicant respectfully submits that the prior art combination of Seidman in view of Brown fails to teach or suggest each of the above-recited features of Claims 6, 19 and 28, as required to establish a *prima facie* case of obviousness. In re Royka, *supra*.

Therefore, for at least reasons provided above, Applicant respectfully submits that Claims 6, 19 and 28 are patentable over the combination of Seidman in view of Brown. *Id.* Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the §103(a) rejection of Claims 6, 19 and 28.

Regarding Claims 7 and 11, based on there dependency from Claim 6, are also patentable over Seidman in view of Brown. Consequently, Applicant respectfully request that the Examiner reconsider and withdraw the § 103(a) rejection of Claims 7 and 11.

Regarding Claim 20, Claim 20 based on its dependency from Claim 19, is also patentable over Seidman in view of Brown, as well as the references of record. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the § 103(a) rejection of Claim 20.

Regarding Claims 29 and 33, based on the dependency from Claim 28, are also patentable over Seidman in view of Brown, as well as the references of record. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the § 103(a) rejection of Claims 29 and 33.

Regarding Claims 12 and 22, Claims 12 and 22 recite the following claim features, which are neither taught nor suggested by either the combination of Seidman in view of Brown or the references of record:

receiving meta-data, the meta-data including descriptions of a plurality of available for broadcast data files from a broadcast server of a service provider system and a plurality of upcoming data files to be broadcast by a broadcast server of a broadcast service system that is separate from the service provider system.
(Emphasis added.)

For at least the reasons indicated above, the disclosure in Seidman is limited to the transmission of a digital stream on a downstream path, which is a multiplex of various media that is coordinated for concurrent play from a single head end system. (See col. 1, lines 6-14, col. 4, lines 40-43 and col. 5, lines 3-5.) Furthermore, the disclosure in Brown (see col. 12, lines 25-35) is also limited to a single content provider and does not teach multiple content providers, such as a broadcast server of a service provider system and a broadcast server of a broadcast service system that is separate from the service provider system from which available for broadcast data files and upcoming data files are received, as recited by Claims 6, 19 and 28.

Hence, Amended Claims 12 and 22 cannot be taught or suggested by Seidman since Seidman explicitly requires the transmission of a digital stream is from a single server (head end)

to a plurality of subscribers connected to the server that must be coordinated for concurrent play.
(See col. 5, lines 3-5 and 24-32.)

Therefore the combination of Seidman in view of Brown cannot teach or suggest the available for broadcast data files from the service provider system and a broadcast server of a broadcast service system that is separate from the service provider system, as recited by amended Claims 12 and 22. Consequently, Applicant respectfully submits that the Examiner's citing of Brown fails to rectify the deficiencies of Seidman in failing to teach or suggest each of the above-recited features of Claims 12 and 22, as required to establish a *prima facie* case of obviousness. In re Royka, supra.

Hence, Applicant respectfully submits that the Examiner is prohibited from establishing a *prima facie* case of obvious of amended Claims 12 and 22, since the combination of Seidman in view of Brown fails to teach or suggest each of the recited features of amended Claims 12 and 22. Id.

Consequently, Applicant respectfully submits that amended Claims 12 and 22 are patentable over the combination of Seidman in view of Brown as well as the references of record. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the § 103 rejection of Claims 12 and 22.

Regarding Claims 13 and 14, Claims 13 and 14, based on their dependency from Claim 12, are also patentable over the combination of Seidman in view of Brown. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the § 103 rejection of Claims 13 and 14.

Regarding Claims 23 and 24, Claims 23 and 24, based on their dependency from Claim 22 and for at least the reasons described above, are also patentable over the combination of Seidman in view of Brown. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the §103 rejection of Claims 23 and 24.

Regarding Claim 34, amended Claim 34 recites the following claim features which are neither disclosed nor suggested by the combination of Seidman in view of Brown:

wherein meta-data is broadcast to the one or more client systems, the meta-data including descriptions of a plurality of available for broadcast data files from the service provider broadcast server and a plurality of data files to be broadcast to the one or more client system by a broadcast server of a broadcast service system that is separate from the service provider system. (Emphasis added.)

For at least the reasons indicated above, the combination of Seidman in view of Brown, is devoid of any disclosure regarding the broadcast, by a broadcast server of a service provider system, of an upcoming data file prior to broadcast of the upcoming data file by a broadcast service system and for selective storage within one of our client systems where the broadcast service system is separate from the service provider system, as recited by amended Claim 34. Conversely, Seidman teaches that the concurrent transmission program segments are part of the multiplexed digital stream from a single head end service to a plurality of subscribers connect to the server that is coordinated for concurrent play to enable a user to select segments to form a customized segment stream. (See col. 1, lines 6-14 and col. 5, lines 24-32.)

Hence, Applicant respectfully submits that the Examiner fails to establish a *prima facie* case of obviousness of amended Claim 34, since the prior art references of Seidman in view of Brown fail to teach or suggest each and every element recited by amended Claim 34 and required to establish a *prima facie* case of obviousness. In re Royka, *supra*.

Therefore, Claim 34 is patentable over Seidman in view of Brown, as well as the references of record. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the § 103(a) rejection of Claim 34.

Regarding Claims 35 and 36 are based on their dependency from 34 are also patentable over Seidman in view of Brown, as well as the references of record. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the § 103(a) rejection of Claims 35 and 36.

The Examiner has rejected Claim 3 under 35 U.S.C. §103(a) as being unpatentable over Seidman in view of Brown and further in view of U.S. Patent No. 6,601,237 issued to Ten Kate et al. ("Ten Kate"). Applicant respectfully traverses this rejection.

Regarding the Examiner's citing of Ten Kate, Ten Kate fails to rectify the deficiencies of Seidman in view of Brown to teach or suggest a broadcast service system that is separate from the service provider system, as recited by amended Claim 1.

Accordingly, for at least the reasons provided above, Applicant respectfully submits that amended Claim 1 is patentable over the combination of Seidman in view of Brown and further in view of Ten Kate.

Consequently, for at least the reasons provided above, Claim 3, based on its dependency from amended Claim 1, is also patentable over the combination of Seidman in view of Brown and further in view of Ten Kate. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the §103(a) rejection of Claim 3.

The Examiner has rejected Claim 5 under 35 U.S.C. §103(a) as being unpatentable over Seidman and in view of Brown and further in view of U.S. Patent Application No. 2002/0112235 to Ballou, Jr. et al. ("Ballou"). Applicant respectfully traverses this rejection.

For at least the reasons indicated above with regard to the §103(a) rejection of Claim 3, amended Claim 1 is patentable over the combination of Seidman in view of Brown and further in view of Ballou since Ballou fails to rectify the deficiencies of Seidman in view of Brown to teach or suggest a broadcast service system that is separate from the service provider system, as recited by amended Claim 1.

Therefore, Claim 5, based on its dependency from Claim 1, is also patentable over the combination of Seidman in view of Brown and further in view of Ballou. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the §103(a) rejection of Claim 5.

The Examiner has rejected Claims 9-10 and 31-32 under 35 U.S.C. §103(a) as being unpatentable over Seidman in view of Brown and further in view of Ten Kate and further in view of Ballou. Applicant respectfully traverses this rejection.

Regarding the Examiner's citing of Ten Kate and Ballou, Applicant respectfully submits that the Examiner's citing of Ten Kate and Ballou fail to rectify the deficiencies of the combination of Seidman in view of Brown to teach or suggest the receipt of at least one upcoming data file broadcast by a broadcast server of a service provider system and an available for broadcast data file by the broadcast server of the broadcast service system that is separate from the service provider system, as recited by amended Claims 6 and 28. Applicant respectfully submits that such references are expressly limited to receipt of broadcast data files from either a single broadcast service system or a service provider system.

Accordingly, Applicant respectfully submits that amended Claims 6 and 28 are patentable over the combination of Seidman in view of Brown and further in view of Ten Kate and further in view of Ballou.

Consequently, Claims 9 and 10, based on their dependency from Claim 6, and Claims 31 and 32, based on their dependency from Claim 28, are also patentable over the combination of Seidman in view of Brown and further in view of Ten Kate and further in view of Ballou. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the §103(a) rejection of Claims 9, 10, 31 and 32.

The Examiner has rejected Claim 30 under 35 U.S.C. §103(a) as being unpatentable over Seidman in view of Brown and further in view of U.S. No. 6,490,722 issued to Barton et al. ("Barton"). Applicant respectfully traverses this rejection.

Regarding the Examiner's citing of Barton, Applicant respectfully submits that the Examiner's citing of Barton fails to rectify the deficiencies of the combination of Seidman in view of Brown to teach the receipt at least one upcoming data file broadcast by a broadcast server of a service provider system and an available for broadcast data file broadcast by the broadcast server of the broadcast service system that is separate from the service provider system, as recited by Claim 28. Consequently, Applicant respectfully submits that Claim 28, as amended, is patentable over the combination of Seidman in view of Brown and further in view of Barton.

Therefore, Claim 30, based on its dependency from Claim 28, is also patentable over the combination of Seidman in view of Brown and further in view of Barton. Consequently,

Applicant respectfully requests that the Examiner reconsider and withdraw the §103(a) rejection of Claim 30.

The Examiner has rejected Claim 27 under 35 U.S.C. §103(a) as being unpatentable over Seidman in view of Brown and further in view of U.S. Application No. 2002/0199194 to Ali ("Ali"). Applicant respectfully traverses this rejection.

Regarding the Examiner's citing of Ali, Ali fails to rectify the deficiencies of Seidman in view of Brown to teach or suggest a broadcast service system that is separate from the service provider system, as recited by amended Claim 25. Therefore, Applicant respectfully submits that amended Claim 25 is patentable over the combination of Seidman in view of Brown and further in view of Ali. Id.

Consequently, Claim 27, based on its dependency from Claim 25, is also patentable over the combination of Seidman in view of Brown and further in view of Ali. Therefore, Applicant respectfully requests that the Examiner reconsider and withdraw the §103(a) rejection of Claim 27.

CONCLUSION

In view of the foregoing, it is submitted that Claims 1-36 patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

Dated: December 20, 2006

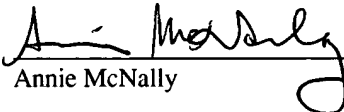
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Annie McNally

12/20/2006
Date